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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,583	10/31/2003	Phillip P. Garcia		1648
7590	05/17/2005		EXAMINER	
MICHAEL R. McKENNA			VASUDEVA, AJAY	
Ste. 3800			ART UNIT	PAPER NUMBER
500 W. Madison Street				
Chicago, IL 60661-2511			3617	

DATE MAILED: 05/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/698,583	GARCIA, PHILLIP P.	
	Examiner	Art Unit	
	Ajay Vasudeva	3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 24 January 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 17-20 is/are allowed.
- 6) Claim(s) 1-16, 21, 22 and 25 is/are rejected.
- 7) Claim(s) 23 and 24 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                                        |                                                                             |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____                                                |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|                                                                                                                        | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Specification***

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

- The engine powering the propeller being a variable speed engine operable in a single rotational direction, as set forth in claim 7.

Note: In the amendment (page 9), applicant's request to amend the specification is not in compliance with the "Revised Amendment Practice", as set forth under 37 CFR 1.121. Applicant is requested to submit such request on a separate sheet of paper. Additionally, see the sample format provided by the examiner in the previous Office Action.

### ***Claim Objections***

2. Claims 1, 2, and 12 are objected to because of the following informalities:

- In the claims, it is recommended that the newly added limitation "neutral torque turning thrust" be changed to -- neutral thrust turning torque – for better form.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

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only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-6, 8-11, 22, and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Bertelsen et al. (US 6,715,574 B1).

Bertelsen et al. ('574) shows a system to propel an air powered boat having a propeller [14] with a shroud [14c] for propelling the air boat in any one of a forward, reverse and at least one neutral turning direction, and means for securing [44, 46] the propeller to the air powered boat. The propeller produces a forward thrust in a first position when the axis of the propeller is disposed horizontally, through a second position in which the propeller produces a neutral thrust with a turning torque, to a third position when the axis of the propeller is disposed horizontally to produce a reverse thrust, thereby moving through an arc of 180 degrees (see figures 2A, 2B, 7 and 12).

#### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 7 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bertelsen et al. (US 6,715,574 B1) in view of Bertelsen (US 3,827,527 A).

Bertelsen et al. ('574) shows an air powered boat having a propeller [14], but is silent on the provision of an engine to power the propeller.

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Bertelsen ('527) shows propeller that is powered by an engine [26, 28] (also, see col. 3, lines 23-25), powering the propeller in a single rotational direction.

It would have been obvious for one skilled in the art at the time of the invention to provide an engine to power the propeller of Bertelsen et al. ('574) in a single rotational direction, as taught by Bertelsen ('527). Having such mechanism would have provided an efficient means to propel the boat.

7. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bertelsen et al. (US 6,715,574 B1) in view of Grengs et al. (US 3,176,647 A).

Bertelsen et al. ('574) shows an air powered boat having a propeller [14], but is silent on the provision of a stationary screen in front of the propeller.

Grengs et al. ('647) shows propeller with a stationary screen in front for blocking debris.

It would have been obvious for one skilled in the art at the time of the invention to provide a screen with the propeller of Bertelsen et al. ('574), as taught by Grengs et al. ('647). Having such mechanism would have blocked debris from contacting the propeller blades, thereby enhancing operational safety.

8. Claims 1-16, 22 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bjorn-Ake (US 4,828,058 A) in view of Bertelsen et al. (US 6,715,574 B1).

Bjorn-Ake ('058) shows a system to propel an air powered boat having a plurality of buoyancy members [1, 2, 3], a shrouded propeller [4, 5] for propelling the air boat in any one of

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a forward, reverse and at least one neutral turning direction, an internal combustion engine [10, 11] (col. 2, line 32) powering the shrouded propeller in a single rotational direction; and means for securing the means for propelling to the air powered boat. The propeller produces a thrust in a first position to move the boat forward or reverse (col. 1, lines 30-34), and produces a downward neutral thrust in a second position (figure 2).

Bjorn-Ake ('058), however, does not show the axis of the propeller movable to a horizontal position while producing a forward or reverse thrust.

Bertelsen et al. ('574) shows an improved gimbal framework for an air powered boat for providing a higher degree of thrust, and permitting greater maneuverability of the boat (col. 1, lines 46-48), as described above in ¶ 4 of this Office Action. The gimbal arrangement allows the propeller [14] to produce a forward thrust in a first position when the axis of the propeller is disposed horizontally, through a second position in which the propeller produces a neutral thrust with a turning torque, to a third position when the axis of the propeller is disposed horizontally to produce a reverse thrust, thereby moving through an arc of 180 degrees (see figures 2A, 2B, 7 and 12).

It would have been obvious for one skilled in the art at the time of the invention to provide an improved gimbal framework in the boat of Bjorn-Ake ('058), as taught by Bertelsen et al. ('574). Having such arrangement would have allowed the propeller to be disposed in a horizontal position when producing a forward or reverse thrust, thereby providing a higher degree of thrust and permitting greater maneuverability of the boat.

***Allowable Subject Matter***

9. Claims 23 and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. Claims 17-20 are allowed.

***Response to Arguments***

11. Applicant's arguments with respect to claims 1-16, 21, 22 and 25 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

12. The prior art made of record in the attached Form 892 and not relied upon is considered pertinent to applicant's disclosure:

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ajay Vasudeva whose telephone number is (571) 272-6689. The examiner can normally be reached on Monday-Friday 12:00 -- 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joe Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ajay Vasudeva  
Examiner  
Art Unit 3617

AV



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